

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

KENNETH D. LOMACK,

Plaintiff,

v.

W. PEREZ, et al.

Defendants.

Case No. [21-cv-03796-EMC](#)

ORDER OF DISMISSAL

On June 28, 2021, the Court determined that the *pro se* prisoner's civil rights complaint in this action failed to state a claim upon which relief may be granted. Docket No. 5. The Court granted Plaintiff leave to file an amended complaint no later than August 12, 2021, cautioning him that failure to file an amended complaint by the deadline would result in the dismissal of this action. *Id.* at 5. Plaintiff did not file an amended complaint, and the deadline by which to do so has long passed. For the foregoing reasons, and the reasons stated in the order of dismissal with leave to amend, this action is **DISMISSED** (without prejudice) because Plaintiff failed to prosecute this matter, *see* Fed. R. Civ. P. 41(b), when he failed to file an amended complaint stating a claim upon which relief may be granted. Because this dismissal is without prejudice, Plaintiff may move to reopen the action. Any motion to reopen must have the words MOTION TO REOPEN on the first page. The Clerk shall close the file.

IT IS SO ORDERED.

Dated: October 27, 2021

EDWARD M. CHEN
United States District Judge